



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

OCTOBER 26, 2004

PRESENT: Acevedo, Benich, Escobar, Lyle, Mueller, Weston

ABSENT: Engles

LATE: None

STAFF: Planning Manager (PM) Rowe and Minutes Clerk Johnson

Chair Weston called the meeting to order at 7:01 p.m., with Cub Scout Joshua Toch leading the pledge of allegiance to the flag. Joshua attended the meeting to meet a requirement for obtaining his Merit Badge.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Weston opened the public hearing.

As no one was present to address the Commissioners, the opportunity for public comment was closed.

MINUTES

OCTOBER 12,
2004

COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE THE
OCTOBER 12, 2004 MINUTES, WITH THE FOLLOWING MODIFICATIONS:

Page 2, paragraph 1: ...with the ~~developer~~ *City Planning Staff*

Page 3, paragraph 8: *Ms. Smith indicated that co-locating higher on the existing pole would increase its total height to 60 to 70 feet, likely about 67 or 68.*

Page 4, paragraph 1: ...north and east ~~west~~

PLANNING COMMISSION MEETING MINUTES

OCTOBER 26, 2004

PAGE 2

THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON: NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES.

Chair Weston stepped down for the next agenda item due to the potential of conflict of interest in the matter.

Vice Chair Lyle became the presiding officer of the Commission at 7:06 p.m.

NEW BUSINESS:

**1) EOT-04-06/
UP-03-09:
RAILROAD-
FREDERICO
ENTERPRISES/
LUSAMERICA
FISH CO.**

A request for an 18-month extension of time of a conditional use permit for a wholesale seafood distribution facility. The project site is located at the northeast corner of Railroad and Barrett Avenues in the MG, General Industrial zoning district.

PM Rowe presented the staff report, telling Commissioners that a Conditional Use Permit (CUP) is valid for one year or longer as determined by the Commissioners. This request deals with the need for additional time, PM Rowe said, due to the remodel and renovation of the building. He informed that the applicant has hired a builder and is ready to proceed with the project, but more time is needed to accomplish finalization of the remodel/renovation in order to open the business.

~~Chair Weston~~ *Vice Chair Lyle* opened the public hearing.

J. Randall Toch, P.O. Box, San Jose, of the legal firm of Hopkins and Carley, spoke to the Commissioners on behalf of the applicant. Mr. Toch explained that the project has been through the Architectural Review Board (ARB) and is working with other governmental agencies to open the facility. Mr. Toch said the applicant is in agreement with the staff report.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-93, AMENDING COMMISSION RESOLUTION NO. 03-103 THEREBY APPROVING AN 18-MONTH EXTENSION OF TIME FOR USE PERMIT APPLICATION UP-03-09: RAILROAD – FEDERICO ENTERPRISES, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN. COMMISSIONER ACEVEDO SECONDED THE MOTION WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER: NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

Chair Weston resumed authority of the gavel at 7:08 p.m.

**2) ZAA-02-18:
COCHRANE-
IN-N-OUT
BURGER/
APPLEBEE'S**

A request to extend the zoning approval for an approximate 3,253-sf drive-thru fast food restaurant and an approximate 5,096-sf sit-down restaurant on a 2.49-acre site located at the NW quadrant of Cochrane Rd and Hwy 101. The subject site is zoned PUD, Planned Unit Development.

PLANNING COMMISSION MEETING MINUTES

OCTOBER 26, 2004

PAGE 3

PM Rowe gave the staff report, giving an overview of the zoning amendment. He told the Commissioners that staff is waiting for materials from the applicant dealing with the public notice requirement.

Chair Weston opened the public hearing.

No one in the audience indicated a wish to speak to the matter. It was noted that the applicant was not present.

COMMISSIONERS MUELLER/LYLE MOTIONED THAT THE PUBLIC HEARING BE CLOSED AND THE STAFF DIRECTED TO READVERTISE THE MATTER OF ZAA-02-18: COCHRANE-IN-N-OUT BURGER/ APPLEBEE'S FOR PUBLIC HEARING ON RECEIPT OF THE MATERIALS NEEDED FOR THE REQUESTED EXTENSION OF TIME. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES WAS ABSENT.

3) APROVAL OF MEASURE "C" COMPETITION SCHEDULE

Proposed schedule for processing applications for the upcoming Open Market, Micro and Small Project Measure "C" competitions.

PM Rowe distributed the proposed schedule for processing this year's Measure C Micro and Open/Market Project Applications. He reminded that the City Council authorized a two-year competition to award the balance of the FY 2006-07 building allotment and the FY 2007-08 allotments. The City Council, PM Rowe said, has also made a determination that a portion of the building allotment in the second year, up to 40 units, will be reserved for a separate Downtown Area competition to be conducted next year.

PM Rowe reported that there are 24 applications on the list for the Measure C competition.

PM Rowe referenced the work of the Measure C Update Committee, and focused on the method for selection criteria and the schedule of hearings for the allocations. PM Rowe noted the March 1, 2005 deadline for award from the competition. PM Rowe said there are two schools of thought on that date 1) the competition award process must be totally done and 2) the initial work of the Planning Commission must be completed by March 1. PM Rowe indicated that Commissioner Lyle has a suggestion for 'moving up' the dates, thereby leaving time for appeals and still have the process completed by March 1, 2005. PM Rowe reminded that Commissioner Lyle had served on the Update Committee for Measure C and has indicated to Staff that the resolution of appeals needs to be solved by March 1, 2005. PM Rowe continued that the issue of time should be resolved for future years, as the requirement for application deadline will be different in future years. The deadline for application this year (2004) was October 1, but will be September 1 in the future. PM Rowe referenced the Resolution recently adopted by the City Council where the matter was discussed and clarified for future utilization.

Commissioner Benich asked questions regarding the procedure and numbering of the list presented. He also referenced the staff report, asking (regarding a proposed November 17 meeting) what is DRC? PM Rowe explained that refers to the Development Review Committee, the committee inclusive of each City Department, and including Fire (a contracted service) with circulation of the applications to the Santa Clara Valley Water

PLANNING COMMISSION MEETING MINUTES

OCTOBER 26, 2004

PAGE 4

District and VTA. Commissioner Benich asked for clarification of the identification of the 'micro' projects. PM Rowe explained that the prefix for the 'micro' projects should be MMC on the projects list. He also said that the Tennant/Gera application on the list indicates that the total project number is correct, but the allocation request differs.

Commissioner Acevedo called attention to the mention of *Measure P* in the data received by the Commissioners. PM Rowe acknowledged that 10 years of talking about Measure P may have caused a 'slip when writing the report'. It should be Measure C, he told Commissioners.

Commissioner Mueller expressed concern of the potential for meeting 'three Tuesdays in a row for the detailed Planning Commission review of the project applications for Measure C competition. (Jan 28, February 8, and February 15). Commissioner Mueller said last year the Commissioners had wanted a break in the hearings, as well as the opportunity for re-review. He acknowledged that with 23 - 24 projects, the Commissioners will need a minimum 2 - 3 nights for the hearings.

Chair Weston opened the public hearing.

No one was present to speak to the matter with the Commissioners; consequently, the public hearing was closed.

Commissioner Mueller continued with his concerns:

- ❖ trying to enforce the 'cut off' point value/threshold
- ❖ allowing plenty of time so allowance for ending the meetings at 11:00 p.m.
- ❖ with a 2-year competition, the developers could become very aggressive

Chair Weston commented that he was thinking of maybe calling a meeting on a Saturday. That proposal did not meet with enthusiasm.

PM Rowe said following discussion by the Commissioners, Staff could look at the schedule, so the meetings would not be limited just to Tuesdays. PM Rowe told Commissioners that the other times the Council Chambers or other rooms would be available, so that it would be possible to consider other days of the week for the hearing.

Commissioner Mueller said that meetings on Tuesdays are not bad – he just doesn't like trying to make fair decisions so late, and would rather put in an extra meeting.

Commissioner Lyle said that the schedule is 'too long already'. The intent of Measure C – and the Committee responsible for studying it - was to wrap up the entire process by March 1, 2005> He stated that if it (the Measure) is read clearly and correctly, it is apparent that the final date is March 1. "If the initial set of allotments is completed by March 1 – and the Council makes any changes – the City will be in violation of the intent (of Measure C) and we may have to give allocations not planned," Commissioner Lyle declared.

Continuing, Commissioner Lyle stated, "I think that we need a much more aggressive schedule to meet certain "C" requirements. The proposed agenda schedule could conceivably go to late April for the Planning Commission's final award of allotments

PLANNING COMMISSION MEETING MINUTES

OCTOBER 26, 2004

PAGE 5

(which he said he believes violates the intent of Measure “C”) due to City Council appeals actions on April 7.” Commissioner Lyle offered an optional schedule which would allow the Planning Commission to meet the March 1 deadline:

- January 18, 2005: Public hearings for micro, small vertical and small projects.
- January 24-25 or 25-26: Public hearings for Open/Market Rate projects.
- February 4 Staff’s final scores go into packets and letters go out to applicants providing their final staff scoring; letting the applicant know that they may appeal at the February 8 Planning Commission meeting, or (appeal) at the February 23 City Council meeting for any issues not resolved to their satisfaction at the February 8 meeting. [Commissioner Lyle clarified this would cause the Commission to try to start the ‘clock’ on February 4, with a warning to the applicants that there could be Planning Commission initiated corrections to Staff’s final scoring, as well as for adjustments that they request. If there is not time for the 15 days notice, the February 8 Planning Commission meeting could be moved to February 7.]
- February 7 or 8 Planning Commission hearings for appeals of final staff scores.
- February 22 Preliminary award of allotments (Commissioner Lyle said this step could be passed over.)
- February 23 City Council considers all scoring appeals.
- March 1 Final award of allotments (If the preliminary awards were granted February 22 and there were NO point changes which affected project rankings, this step could be eliminated.)

Commissioner Lyle advocated having a February 7 meeting, saying this would be simpler. He said, “The Commissioners could step back and give the developers/applicants a chance to look at their application, the scoring, etc.” [add] *Continuing, Commissioner Lyle said that alternatively, the January PC meetings could be held on January 11, 18, and 25.*

Commissioner Benich said he heard what Commissioner Lyle is saying and indicated it would be good if the schedule could be moved up. “But on the other hand, it seems the meeting schedule the Staff presented is reasonable,” Commissioner Benich said.

Commissioner Lyle urged serious consideration of the schedule he had presented. “If an applicant appeals and gets allocations from the City Council,” he said, “the process cannot be finished by March 1.”

Commissioner Mueller said he shared Commissioner Lyle’s concern that if the City Council upholds the appeals and awards allocations, the Commissioners would have to take allocations from others, and that might prove difficult.

PM Rowe interjected that the schedule proposed by Commissioner Lyle is important, as it builds in time for appeals to the City Council.

Discussion ensued regarding timely distribution of the narratives for the hearings, and the possibility of dealing with the micros and vertical-mixed project applications first.

Commissioner Mueller pointed out that if the global issues were not discussed before the micros and vertical-mixed project applications were considered, the micros may be affected. “The global issues generally affect all categories,” Commissioner Mueller said.

PLANNING COMMISSION MEETING MINUTES

OCTOBER 26, 2004

PAGE 6

“I like doing a couple of market rates first.”

Commissioner Lyle said that on the first night of the hearings, it might be possible to start at an earlier hour for discussion on the globals. He reminded that under the schedule he proposed, the applicants would have ‘another shot’ at the Commission with any revised scoring.

Discussion was had regarding the times for starting the meetings and possible numbers for the ‘cut off’.

PM Rowe was directed to prepare a revised schedule for presentation at the next meeting.

4) MULTI-FAMILY VACANCY RATE REPORT

Bi-annual review of apartment vacancy rates as required in accordance to the Morgan Hill Municipal Code, Chapter 17.36.

PM Rowe presented the report, advising the Commissioners that the most recent multi-family housing estimates from the State Department of Finance indicate a total of 1,754 multi-family units. Survey results account for over 50% of all such units, PM Rowe said.

COMMISSIONERS LYLE/MUELLER MOTIONED ACCEPTANCE OF THE SURVEY RESULTS WHICH ESTABLISH THE VACANCY RATE FOR OCTOBER 2004 AT 3.31%. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES.

5) HOLIDAY MEETING SCHEDULE

A request to cancel the December 28, 2004 Planning Commission meeting and discussion regarding action regarding other possible changes to the November and December meeting schedule.

PM Rowe explained that in anticipation of a heavy workload for the Commissioners, that the holiday schedule be adjusted differently from past years. Having studied the matter, PM Rowe recommended that the Commissioners consider canceling the December 28 meeting, but retain two meetings in November. Because of the Thanksgiving holiday, PM Rowe suggested the Commissioners consider November 30 for a meeting date; but cancel the December 28 meeting, as it occurs during the City’s annual employee furlough.

Commissioner Acevedo disagreed with moving the November 23 meeting to the 30th, citing issues with timing of the staff reports and having them available for the Commissioners in a timely fashion. PM Rowe said it should be possible to get the agenda out on Wednesday before Thanksgiving, thereby providing the ability for Commissioners to study the packet in advance of the meeting for the last Tuesday in November.

COMMISSIONERS MUELLER/LYLE MOTIONED TO CANCEL THE DECEMBER 28, 2004 MEETING AND TO RESCHEDULE THE SECOND MEETING IN NOVEMBER TO THE 30TH. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES WAS ABSENT.

ANNOUNCEMENTS:

PM Rowe distributed to each Commissioner a copy of the Butterfield North Connection Study. He noted that the Study covers the area from Madrone Parkway to Santa Teresa

PLANNING COMMISSION MEETING MINUTES

OCTOBER 26, 2004

PAGE 7

and Butterfield north of Cochrane Road. The California Public Utilities Department (CPUD) required this area to be studied in order for the City's request for an application/permit be considered for building a road at-grade street crossing at Madrone Parkway. Deputy Director of Public Works Bjarke is the lead person for the Study and can be contacted with any questions the Commissioners might have, PM Rowe said.

PM Rowe reported the City council had not addressed any matters of Commission action at their last meeting.

Responding to a question from Commissioner Mueller, PM Rowe said *street standards* would be addressed next month.

ADJOURNMENT: Having determined there was no further business to be addressed by the Commissioners, Chair Weston adjourned the meeting at 7:39 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk